

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

RECODIFICATION OF) Administrative Cause No. 10-002P
DNR PROPERTY USE STANDARDS) (LSA Document #10-37(F))

RECOMMENDATION FOR FINAL ACTION ON READOPTION OF RULE

A. INTRODUCTION

For consideration is the final adoption of recodification of the rules for 312 IAC 8 governing public use of DNR properties. 312 IAC 8 consists of four effective and one repealed rule. 312 IAC 1 outlines administration and includes definitions. 312 IAC 2 describes restrictions on public use of a DNR property. As defined for the rules at 312 IAC 8-1-4(3), a “DNR property” refers to the following:

land and water owned, licensed, leased, or dedicated under IC 14-31-1 or under easement to the state or managed by the department. The following areas are, however, exempted from the term:

- (A) Public freshwater lakes.

- (B) Navigable waterways.

- (C) Buildings and grounds (other than those of the Indiana state museum) not located at recreational, natural, or historic sites.

An area is not exempted because the department has issued a lease, license, or concession to another person.

312 IAC 8-3 governing fishing tournaments was repealed in 2002 and superseded by 312 IAC 2-4. Fishing tournament provisions are not further considered here. 312 IAC 8-4 governs the management of group boat docks on Lake Monroe and Mississinewa Lake. 312 IAC 8-5 governs enforcement, penalties, and other administrative actions.

In April 2002, the Natural Resources Commission (the “Commission”) approved delegations of authority with respect to readoptions. Where the rules are being readopted in their current form without amendments, the Director of the Division of Hearings may approve preliminary action. The Commission retained authority to take final action on recodifications.

The rules codified under 312 IAC 8 are proposed for readoption without amendment. The Director of the Division of Hearings approved preliminary adoption on January 4, 2010. The standard practice is to readopt rules by article, and 312 IAC 8 is now submitted for consideration as to final adoption.

B. READOPTION ANALYSIS REQUIRED UNDER IC 4-22-2.5-3.1

The standards in 312 IAC 8 are atypical because they are not primarily directed to a regulatory program but are instead codifications of the Department of Natural Resources (the “DNR”) management of real estate within its care and control. The rules are an exercise of the DNR’s proprietary functions with oversight by the Commission. Management and enforcement of this article are largely performed on a local basis with considerable practical autonomy and responsibility in property managers and conservation officers. One result is the probability someone, somewhere will have commented or complained to a DNR professional about every provision in 312 IAC 8. In attempting to perform these analyses, the evaluations consider those comments or complaints that have achieved some notoriety to the DNR or NRC as a whole. Said another way, there are doubtless citizen complaints which have been made to a DNR employee but are unknown to the reviewers.

The human impact of 312 IAC 8 is usually upon individuals who elect to use DNR properties for recreational activities. Because the broadest interest is likely directed to 312 IAC 8-2, this rule was the focus of the recodification analyses. The review was a cooperative effort among the DNR Divisions that regularly perform property management, with support from the DNR’s Division of Law Enforcement. John Bergman, Assistant Director of Operations for the Division of State Parks, was appointed the Small Business Regulatory Coordinator for this rule readoption. Marian England chaired a multi-divisional effort to provide analyses of the rule sections. Other participants included Dale Brier, Lee Casebere, Richard Edwards, Dan Ernst, Major Steve Hunter, Mitch Marcus, Laura Minzes, Ginger Murphy, and Michael Mycroft. This effort resulted in the following descriptions of potential fiscal impacts and related matters:

312 IAC 8-1-1

Section 1 states 312 IAC 8 applies to a person who uses a DNR property. The section is introductory and does not impose any fiscal impact on a small business. No complaints concerning the section have been identified, and there is a continuing need for its existence. The section was last reviewed in 2004.

312 IAC 8-1-2

This section is also introductory and indicates 312 IAC 8 is administered by the DNR. Professionals within the DNR or Commission and contractors are exempted from the requirements 312 IAC 8 where performing these persons are performing official duties. The section does not impose any fiscal impact on a small business or other person. No complaints concerning the section have been identified, and there is a continuing need for its existence. The section was last reviewed in 2004.

312 IAC 8-1-3**The continued need for the rule**

This section provides the legal superstructure for entrance and use requirements on DNR properties. Under IC 14-10-2-4 and IC 14-11-2-1, the Commission writes rules to set fees, entrance locations, and conditions on the public use of DNR properties. 312 IAC 8-1-3 is the basis for all subsequent property rules governing DNR properties. There are numerous types of DNR properties within the state of Indiana, such parks, reservoirs, state forest, and nature preserves. Each property and division associated with them has different missions and objectives in managing these properties. The rules affecting how they are to be used mirrors the mission of each division. Some receive federal assistance while others may receive state funding or are reliant on public user fees. Through the rules, the Commission recognizes the different divisions and their missions, goals, and objectives. Through this section, the Commission sets terms for property use that are designed to do the following:

- 1) Protect the property for public preservation and use.
- 2) Set conditions that meet the objectives for the management of the properties by the DNR and State of Indiana.
- 3) Set fees and prohibitions to ensure the long term protection and operation of these public lands for the people of Indiana.

Not having the ability to regulate the use and fees associated with these public lands and waters would adversely affect the long-term success of protecting and managing public lands and waters in the State of Indiana. A continuing need exists for this section.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

There are numerous rules with 312 IAC 8 which affect public use, and, in some cases, small business. 312 IAC 8-1-3 is the starting point for all subsequent sections within 312 IAC 8. On occasion, there have been public complaints about rules or fees and questions concerning “who has the authority or who made these rules”. The DNR and interested citizens recommend policies concerning DNR property use, and the Commission implements policy choices through 312 IAC 8. Citizen complaints are heard at public meetings conducted by the Commission or its staff and sometimes form the basis for rule amendments.

The complexity of the rule, including any difficulties encountered by the agency in administering the rule

The antecedents to 312 IAC 8 were some of the earliest rules governing DNR responsibilities. A myriad of uses are considered among DNR properties that serve a multitude of issues. 312 IAC 8 provides a compendium which must be implemented in

unique ways on unique properties. Property management must accommodate changing goals and changing user expectations. Complexities must be an expected consequence of the management of a DNR property, and difficulties an inevitable consequence of those complexities. 312 IAC 8 is frequently amended in an effort to protect the resources and accommodate changing uses. The most responsive strategy is to assure continued openness in rule reviews by the Commission. Frequent presentations are made to the Commission by agency professionals, and the Commission has additionally implemented a process for individual citizens to petition for rule changes. The DNR and Commission processes to address rule complexities and resulting difficulties are believed to be well-crafted and effective.

Difficulties encountered by small businesses in complying with the rule

312 IAC 8-1-3 generally has little direct impact upon small businesses. Where a small business serves as a concessionaire or otherwise partners with the DNR in providing services on a DNR property, the relationship between the agency and the small business is typically governed by contract and not 312 IAC 8. 312 IAC 8-1-3 affects individual public users much more than small businesses. Commission decisions such as approving a master plan for a particular property could affect small businesses. For example, there may be indirect financial consequences for a private campground in the vicinity of the DNR property. The intent of creating rules, conditions, fees and access (entrances) to DNR properties is to offer protection, wise use and management of public lands and waters for the people of Indiana.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

312 IAC 8-1-3 conditions, fees, and entrance access requirements are specific to DNR properties. They do not supersede state or local laws, rules, regulations, or ordinances. The State of Indiana does lease public lands from the US Government, perhaps most notably the US Army Corps of Engineers, and lands within DNR properties may have been purchased with Federal funds (*eg.*, the Pittman-Robertson Act). The DNR and Commission seek to draft provisions within 312 IAC 8 to incorporate Federal requirements. If a conflict is identified, the rules are amended. A recent example of accommodating 312 IAC 8 and Federal standards is that 312 IAC 8-2-3 allows handguns on DNR properties under circumstances not authorized by the Army Corps for lands it leases to Indiana. For DNR properties leased from the Army Corps, the rule section was drafted to conform to Army Corps requirements.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-1-4

This section provides definitions and is needed for the efficient and consistent implementation of 312 IAC 8 as a whole. The section does not impose any fiscal impact on a small business. If a definition has a substantive consequence, the consequence is addressed in the analyses of particular rule sections. No complaints concerning the section have been identified, and there is a continuing need for its existence. This section was last reviewed in 2006.

312 IAC 8-2-1**The continued need for the rule**

This section authorizes the use of posted signs to allow a particular use of DNR property, set parameters for use, or prohibit a use. Violation of a sign is an infraction under the property use rules. The DNR consists of several divisions with different missions. Sometimes situations arise that may be temporary and allowing the posting of a sign to address that change is more efficient and more appropriate than implementing the full rule promulgation process. There is a continuing need for the rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

The DNR occasionally receives complaints or comments regarding the nature, location and specifics of signage. The agency has not otherwise received complaints or comments about this rule section.

The complexity of the rule, including any difficulties encountered by the agency in administering the rule

The DNR has not encountered difficulties in administering the rule. Posted signs must follow a DNR process that includes approval by the applicable division staff and the DNR's Law Enforcement Division. The use of a posted sign is generally limited by the department as county prosecutors vary in their willingness to enforce or pursue criminal prosecutions based only upon signage.

Difficulties encountered by small businesses in complying with the rule

The DNR is not aware of any difficulties encountered by small business in complying with this rule.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

312 IAC 8-2-1 does not overlap, duplicate, or conflict with other federal, state, or local laws, rules, regulations, or ordinances.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-2

The continued need for the rule

This section addresses trash, refuse, and sanitation. It prohibits the disposal of trash, garbage, sewage, glass, petroleum products or other material on a DNR property or maintaining such material in a manner that violates federal or state law. This section also permits the inspection of watercraft equipped with a toilet or galley by the DNR and limits where boats, vehicles, waste receptacles, or personal items may be washed. The continued need for the rule is to protect the resource and properties from contamination and is part of the wise management of DNR properties. There is a continuing need for this rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

No comments or complaints were received from small business or the public.

The complexity of the rule, including any difficulties encountered by the agency in administering the rule

Difficulties experienced by the DNR are the result of persons not following the rule. Illegal dumping, particularly at remote sites, can be a problem. In addition, some years ago, certain divisions implemented a “carry in-carry out” policy. This involved the removal of trash dumpsters from DNR properties, with certain excepted areas, and requiring people to take their trash with them after visiting a property. Difficulties have occurred with boats, particularly at marinas. That issue is addressed more particularly at 312 IAC 8-2-13.

Difficulties encountered by small businesses in complying with the rule

None.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

The DNR is not aware of any overlap, duplication, or conflict with federal, state, or local laws or rules, regulations or ordinances. If there were a conflict with federal requirements, the rule would be amended. Please see 312 IAC 8-2-13 regarding boats, marinas, and marine sanitation devices.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-3

The continued need for the rule

312 IAC 8-2-3 is needed to provide guidance on hunting, trapping and shooting activities on DNR properties including the use and possession of firearms on DNR properties. This section allows the DNR to protect and manage natural resources within DNR properties while ensuring the safety of the public.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

The Department of Natural Resources receives a few comments each year related to dog running events needing a special permit (a form of “license”) for activities on DNR properties. See 312 IAC 8-2-5. Some DNR properties have designated dog running areas. The DNR has received no comments related to this rule section from small businesses.

The complexity of the rule, including any difficulties encountered by:
(A) the agency in administering the rule; or
(B) small businesses in complying with the rule

Administering this section of the rule requires sufficient staff and time to ensure compliance but is not otherwise complex. This section does not impose any fiscal impact on a small business.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

The portion of this section related to possession of handguns is in compliance with IC 35-47-2 and in compliance with Federal standards for those DNR lands leased from the Army Corps.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-4

The continued need for the rule

312 IAC 8-2-4 is needed to provide guidance on fishing, cleaning and processing fish on certain DNR properties.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

The DNR is not aware of any public or small business complaints or comments concerning this rule.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule

Administering this section of the rule requires sufficient staff and time to ensure compliance but is not otherwise complex. This section does not impose any fiscal impact on a small business.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

This section of the rule is specific to DNR properties. It does not supersede state or local laws, rules, regulations, or ordinances.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-5

The continued need for the rule

This section defines where alcohol is prohibited on DNR properties. For many years, the prohibition has applied to swimming beaches and shooting ranges. The beverage can contribute to behavior that could lead to dangerous safety conditions at a swimming

beach or shooting range. In the late 1980s, a severe drinking problem at Indiana Dunes State Park led to social behavior conflicts among user groups and numerous arrests, detracting from the family atmosphere sought for state parks and recreation sites on DNR properties. As a result, a total alcohol ban was adopted for Indiana Dunes State Park in 1990. The problem of group-related alcohol consumption has been reduced significantly, and the park is again a “family oriented” recreation area.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

Swimming beaches and shooting ranges have had a long history of alcohol bans and they are recognized areas of alcohol restrictions across the nation.

After the rule amendments were applied to Indiana Dunes State Park, those who responsibly consumed alcohol within the park (particularly senior citizens) raised complaints with the Division of State Parks and Reservoirs. There have been no recorded complaints from small businesses.

The complexity of the rule, including any difficulties encountered by the agency in administering the rule

DNR’s Division of Law Enforcement and other law enforcement agencies work diligently to enforce this section. The rule is not complex. Enforcement to keep swimming beaches, shooting ranges, and Indiana Dunes State Park free from alcohol consumption is a continuing, but manageable undertaking.

Difficulties encountered by small businesses in complying with the rule

Small business is not affected by this section. The DNR has received no comments from small business concerning the complexity of enforcement.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

This section does not overlap, duplicate, or conflict with other federal, state, or local laws, rules, regulations, or ordinances.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-6

The continued need for the rule

312 IAC 8-2-6 provides the requirements and restrictions when animals are brought onto DNR properties.

The section establishes appropriate criteria for the subject addressed. These are required to provide the public and property officials with discernable standards to participate in or administer these activities while balancing the need to protect the environment and maintain an acceptable level of safety. There is a continued need for the rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

DNR has received complaints and comments from the public concerning this rule. The majority of complaints are related to animal and user conflicts, inadequate oversight of service animals, and enforcement of pet leash requirements. Animal owners are generally pleased to be allowed to bring their pets (and horses) onto DNR lands. Some would like to see horse designated facilities expanded, others would like this use reduced.

**The complexity of the rule, including any difficulties encountered by:
(A) the agency in administering the rule; or
(B) small businesses in complying with the rule**

This rule provides standards and guidance regarding the public's use of animals on DNR properties. The rule makes some distinction between pets and service animals that is generally helpful. The challenge DNR has in the implementation of this rule is in balancing the public desire to bring animals onto DNR properties without compromising others' enjoyment and the integrity of the natural environment. DNR must make reasonable efforts to protect the safety of customers. The deep attachment to one's pets can make for emotionally charged situations. This rule helps deal with issues in an objective manner.

The April-November horse tag season has also been an issue as horse use increasingly extends beyond this period. This issue may be considered in a subsequent rule adoption, but not within this recodification.

DNR has refined the administration of its rule and works with small businesses, private individuals, and professionals in complying with it. There has been no demonstration of small business compliance issues. There has been no demonstration that 312 IAC 8-2-6 conflicts with other federal, state or local laws and is an appropriate implementation of state statute.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

The Americans with Disabilities Act (ADA) requires access to programs for persons with disabilities. As guidance is received for the application of the ADA, the rule would be

amended to maintain consistency. To date, there has been no demonstration that these rules significantly overlap with or duplicate other federal, state or local laws.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2007.

312 IAC 8-2-7

The continued need for the rule

This section governs the use of fires and flammable liquids on DNR properties. The section is necessary to control and contain fires and flammable liquids within locations designated for this purpose and to prohibit them where appropriate. Illegal ground fires in undesignated areas pose hazards and are particularly vexing to public safety and resource protection where started in the evenings or in remote areas of properties, such as at boat ramps. This section allows the DNR to enhance the safety of the public and protect the resources within DNR properties and surrounding private properties. There is a continued need for this section.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

The Commission has not received any complaints from the public, including small businesses, concerning this section or the DNR's implementation of this section.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule

This section provides for management of fire and flammable liquid use while on DNR properties. The rule is not complex. Apart from challenges inherent to the limited number of personnel available for observing DNR properties, particularly those in more remote areas, the agency has not encountered difficulties in administering the section. Small businesses are not typically affected by the section and have not identified difficulties in complying.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

There has been no demonstration this section significantly overlaps with or duplicates other federal, state or local laws.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-8

The continued need for the rule

312 IAC 8-2-8 provides the minimum acceptable standards for the use of vehicles, trails, watercraft and aircraft on DNR properties. The section establishes an appropriate process for their operation. The rule is necessary to provide the public with the proper way to participate in these activities while balancing the need to protect the environment and maintain an acceptable level of safety. There is a continued need for the rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

DNR has received complaints and comments from the public concerning this rule. The majority of complaints are about limitations on the operations of motorized vehicles, environmental impacts from motorized vehicles, and conflicts related to multi use trails. Persons have sought to use motorized vehicles off trails that were designated for this purpose. Comments are consistently appreciative about the safety and serenity of the property. The Commission has also received a petition concerning paragliding, and this petition is discussed below in 312 IAC 8-2-9. A paraglider is similar to a hang glider but is not specifically referenced in the rule.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule

This section provides standards and guidance regarding the public's use of vehicles, trails, boats, and aircraft. The challenge DNR has in the implementation of this rule is in balancing the need of the public to access various parts of the properties without compromising another's enjoyment. DNR must make reasonable efforts to protect the safety of customers as well as maintain the natural environment. As new issues and technologies emerge and new vehicle types are developed, amendments may be needed.

DNR has refined the administration of its rule and works with small businesses, private individuals, and professionals in complying with it. 312 IAC 8-2-8 does not conflict with other federal, state or local laws and is an appropriate implementation of state statute.

This rule is procedural and helps clarify the statutory mandate.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

The Americans with Disabilities Act (ADA) requires access to programs for persons with disabilities. As guidance is received for the application of the ADA, the rule would be amended to maintain consistency. To date, there has been no demonstration that these rules significantly overlap with or duplicate other federal, state or local laws.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This rule was modified in 2007 to authorize the use of motorized carts and make changes to boat permits and the display of horse tags. Also, in the process of conducting its business, DNR is continually reviewing its effectiveness in providing standards and guidance to small businesses, private individuals, and professionals in complying with its rules. As noted above, technology and other factors are changing in a way that may warrant modification to 312 IAC 8-2-8.

312 IAC 8-2-9

The continued need for the rule

312 IAC 8-2-9 is needed for public safety and to provide balanced usage of recreational activities on state properties including swimming, snorkeling, scuba diving, and tow kite flying. Due to the wide spectrum of activities at properties it is necessary to protect users who are involved in these and other activities. Restricting the times and places these activities occur creates a safer and more enjoyable recreational environment. There is a continued need for this rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

The Natural Resources Commission has received a citizen's petition for rule change directed to this section and 312 IAC 8-2-8, and the review is pending in Administrative Cause Number 09-161L. As prescribed by the Commission's nonrule policy document concerning rule-change petitions, a committee is analyzing the petition and may recommend the Commission clarify that tow kite flying hours should be observed by all airborne devices towed by boats. A recommendation may be made to add "parasailing or similar activities" in 312 IAC 8-2-9 (d) immediately following tow kite flying. If the Commission elects to modify the rule as a consequence of the petition for rule change, the modification would be implemented through a subsequent process and not within the context of the present recodification.

**The complexity of the rule, including any difficulties encountered by:
(A) the agency in administering the rule;**

It is a continuing challenge to the agency to contain regulatory language that is applicable to the latest recreational activities. This challenge is illustrated by the citizen's petition for rule change outlined in the previous paragraph and will likely be renewed in the future by developing recreational uses. A dynamic approach is needed to balance the competing demands of recreational users and provide for reasonable environmental protection of the DNR properties.

(B) small businesses in complying with the rule

This section is directed primarily to balancing interests of competing individual users, and no small business has identified difficulties in achieving compliance.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

In 2009, the U. S. Army Corps of Engineers ("Army Corps) banned tube kite flying on reservoirs in Ohio, Indiana, and Kentucky. Because a prohibition is not currently included in this section, a Conservation Officer cannot implement the ban. To become consistent with the Army Corps directive, a rule amendment is needed. The DNR anticipates requesting the Commission to consider adding a section (e) to 312 8-2-9 with wording that would prohibit a person from engaging in tube kite flying without a special permit. If the Commission elects to modify the rule as a consequence of the petition for rule change, the modification would be implemented through a subsequent process and not within the context of the present recodification.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section is currently under review by the DNR as indicated.

312 IAC 8-2-10

The continued need for the rule

The Department of Natural Resources owns and manages over 500,000 acres of land for which it is charged with stewardship. Responsible stewardship entails use of wise management practices to ensure that the plant, animal, geological, archaeological, and historical resources under its care will be conservatively used for current and future generations. Protecting these resources includes the establishment and implementation of rules and regulations governing use by the public. The resource protection issues addressed by 312 IAC 8-2-10 are important to the stewardship umbrella of DNR, and there is a continued need for this rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

Rules that protect plants and animals are generally seen by the public as being beneficial, and they are seldom challenged. 312 IAC 8-2-10 makes allowances for harvest of certain plant products that are known to be renewable and sustainable, such as mushrooms, nuts and berries. Other sections of 312 IAC address hunting and fishing harvest issues.

There are some complaints from users of metal detectors who believe that they should be able to use these devices on other parts of DNR properties besides sand swimming beaches.

The DNR is not aware of complaints to this section of the rule from small businesses. Compliance with this section of the rule should not produce any difficulties or hardships to small businesses.

The complexity of the rule, including any difficulties encountered by:

A) the agency in administering the rule

This rule is not complex and entails few difficulties in its administration.

B) small businesses in complying with the rule

This rule is of little or no consequence to small businesses, and therefore, does not present difficulties to small businesses regarding compliance.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

In the case where plants and animals on properties managed by DNR are state or federally listed as rare, threatened, or endangered, there is an overlap with state and federal laws, rules, regulations, or ordinances. Otherwise, there is no known overlap.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-11

The continued need for the rule

Section 11 sets basic limits on camping and use of DNR properties for camping (overnight use). The section is the foundation for camping policies and central reservation policies for the DNR. In the absence of the section, there would be many

issues relating to improper use of camping areas, visitor conflicts, and sanitation and safety conflicts. There is a continued need for the section.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

Most complaints result where the section has been violated and are not complaints directed to the strictures of the section. On less frequent occasions, persons express the desire to camp in portions of a state forest or state park where camping is prohibited. The DNR also receives requests for additional camping areas, such as backcountry sites.

Small business complaints are almost non-existent. Occasionally, the DNR receives complaints that the agency has added campsite amenities at a lower cost than what a small business would offer at a private site.

**The complexity of the rule, including any difficulties encountered by:
(A) the agency in administering the rule; or
(B) small businesses in complying with the rule**

Administering the rule section requires sufficient staff and time to ensure compliance, particularly during peak-use periods. The DNR Central Reservation System requires acceptance and compliance with 312 IAC 8 during the reservation process and prior to arrival. A prohibition on the private subleasing of campsites is sometimes an issue and is very difficult to enforce. If a person subleases a reservation to another person, the activity may not be noticed by a DNR employee unless a thorough ID Check is conducted for each arrival. In general, however, the section is relatively simple to follow and is not overly complex.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

These rules are unique to the DNR with the exception of sanitation issues under subsection (g) and subsection (j). The sanitation provisions of the section mirror almost all public health agency standards relating to sanitation and are not in conflict.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-12

The continued need for the rule

312 IAC 8-2-12 provides restrictions on personal activities on a DNR property that may disturb others, enhance users' safety, and establishes a time for users to leave DNR property. A time is set for guests to leave recreation areas except in certain conditions. It also restricts the use of audible devices that may be loud and disturbing. The section is needed to maintain a standard time for guest to leave areas and to maintain a peaceful experience for DNR property users. The section provides for public safety by controlling the use of fireworks and public entry into caves and subsurface mines. There is a continued need for the rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

Complaints have been received regarding increased restrictions on access to caves which has resulted from agency concerns for the spread among bats of white-nosed syndrome. This issue was addressed by the Commission in amendments to the nonrule policy document, "Caves and Karst Resource Management on Properties Owned or Leased by the Department of Natural Resources", Information Bulletin #25 (Second Amendment), Legislative Services Agency (September 30, 2009) 20090930-IR-312090794NRA. Although DNR must frequently enforce this section, the agency has not received formal complaints about its terms other than those related to karst management.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule

This section is not complex and is relatively easy to enforce. Customer complaints are the best measuring factor for what constitutes "disturb". This section is directed to individual enjoyment of a user of a DNR property and does not affect small business.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

This rule does not overlap or duplicate any other state laws. Many local governments have sound ordinances that vary greatly among one another.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

The section was last reviewed in 2009, resulting in an amendment to the nonrule policy document pertaining to karst management. There have been no rule changes since 2004.

312 IAC 8-2-13

The continued need for the rule

Section 13 governs the treatment of marinas on DNR properties and the need to have sufficient wastewater treatment, disposal or other alternatives for wastewater treatment. Marinas are locations where private boats are stored, anchored or occupy slips. Many of these boats have intensive use by private individuals over extended periods of time away from land-based wastewater reception facilities. The requirements in this section parallel Commission rules applicable to other public waters. The parallel requirements are codified primarily at 312 IAC 6-4 for navigable waterways and at 312 IAC 11-4-1 for public freshwater lakes. There is a continuing need for the section.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

Marina concession operators have absorbed these costs by providing additional facilities for sanitary pumpouts if not previously available. In some instances, Federal funding has been available to assist with achieving compliance through the Clean Vessel Act Program administered through the Indiana Department of Environmental Management. Complaints received by the DNR are most frequently by citizens asserting lack of adequate pumpout facilities, or, on rare occasions, the need to have current pumpout facilities operational.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule

The section suffers the complexities generally associated with environmental controls directed to sanitation and water quality protection. A flexible regulatory approach is implemented, however, and a marina operator may apply either Indiana Department of Environmental Management standards (327 IAC 3-2) or State Department of Health standards (410 IAC 6-10) to achieve compliance.

Leased marina operators must meet the standards for waste removal from their facilities, if no adequate facility previously was available or operational. The section has not generated complaints from small businesses because marina operators acknowledge the environmental benefits of having wastewater facilities onsite. Also, there is a public expectation that marina slip and buoy field operators make these facilities available in the usual course of their operations.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

The US Coast Guard has regulations which govern the use of marine sanitation devices on boats. While these regulations do not conflict or overlap with 312 IAC 8-2-13, there is a degree of public confusion. This confusion is most palpable regarding the consequences and appropriate locations for the use of Type I Marine Sanitation Devices. The Commission has sought to alleviate the confusion through the adoption of a nonrule policy document, "Type I and Type II Marine Sanitation Devices on Navigable Waters of

Indiana”, Information Bulletin #35, Legislative Services Agency (February 14, 2007) 20070214-IR-312070082NRA. The document is also available on the Commission’s website.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

Pumpout facilities have been added over the past 15 years to all state marinas and facilities. These facilities have enhanced the cleanliness of public waters on DNR properties, and more generally of the State of Indiana, and have helped stabilize the cost of wastewater removal at the marinas. This section was last reviewed in 2008, and reviews of parallel provisions for navigable waters took place in 2009.

312 IAC 8-2-14

The continued need for the rule

This section addresses private advertisements and solicitations. Without this rule, the DNR properties could become overwhelmed by any kind of notice a camper or other individual would want to post. In addition, allowing some typed of advertisements might result in a clamor for allowing any and all kinds. Permitting individual advertisements might also result in commercial enterprises occurring on the properties. Many visitors come to DNR properties for solitude, recreation, and “getting away from it all”. Having properties ‘papered’ with advertisements and solicitations would undermine this and also not be environmentally conscious. There is a continuing need for the rule.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

The DNR has not received complaints or comments from small business or the public about the rule or the rule’s implementation. Small businesses that operate on a property as a concessionaire comply with the rule unless otherwise directed under their contract with the State.

The complexity of the rule, including any difficulties encountered by the agency in administering the rule

If property personnel encounter someone violating this rule, the person is told to remove advertisement or solicitation. There is normally willing compliance with this directive; ejection from the DNR property does not normally occur, but is an option. Additionally, items that have been posted without authorization are removed by property personnel.

Difficulties encountered by small businesses in complying with the rule

The DNR is not aware of any difficulties encountered by small businesses in complying with this rule.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

The DNR is not aware of any overlap, duplication, or conflict with other federal, state, or local laws, rules, regulations, or ordinances.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

312 IAC 8-2-15

The continued need for the rule

312 IAC 8-2-15 governs the use of DNR properties by private organizations. The section is an effort to articulate a difficult balancing of interests among individuals using a DNR property, the protection of natural and cultural resources at a property, and organized events which may have local or regional significance. The rule is needed to provide balance and a reasonable level of agency predictability.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

A primary purpose of this section is to balance interests and to equitably address complaints arising from competing users of DNR properties. Individuals and families may be disappointed by the occurrence of activities by private organizations which impact the ability of the individual or family to enjoy a particular DNR property or facility at a DNR property. Private organizations may support legitimate local or community needs, and in some situations, the activities of a private organization may support local or even State economic needs. Private organizations may complain their needs have not been accommodated or have not accommodated to the extent they believe appropriate.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule

Any effort to balance legitimate needs among private organizations, ordinary individual and family use, and the protection of cultural and natural resources at a DNR property or facility within a DNR property is inherently complex. Property managers and law enforcement officials can be particularly challenged by the interfacing of competing users

during an event sponsored by a private organization. Small businesses may be impeded in what they would perceive as an ideal environment for their activities.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

Except as otherwise discussed in these analyses, there has been no demonstration this section significantly overlaps with or duplicates other federal, state or local laws.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section has not been formally reviewed since 2004, although informal discussions of possible refinements are almost perpetual.

312 IAC 8-2-16

The continued need for the rule

312 IAC 8-2-16 provides guidance on entry to Goose Pond Fish and Wildlife Area.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

The Division of Fish and Wildlife has received no complaints regarding this section of the rule. The Division has received inquiries as to why one must obtain a permit card and when staff provide explanation, those inquiring have been accepting of the explanation.

**The complexity of the rule, including any difficulties encountered by:
(A) the agency in administering the rule; or
(B) small businesses in complying with the rule**

Administering this section of the rule requires sufficient staff and time to ensure compliance. This section does not impose any fiscal impacts on a small business.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

This section of the rule is specific to one DNR property. It does not supersede state or local laws, rules, regulations, or ordinances.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was adopted in 2007.

312 IAC 8-4

The continued need for the rule

312 IAC 8-4 had its genesis in the middle-to-late 20th century with the development of lakes by the US Army Corps of Engineers. Monroe, Mississenewa, Racoon (Harden Lake), and Lieber (Cagles Mill) initially anticipated group boat docks to facilitate lake access by adjacent property owners. As part of a joint plan by the Army Corps and DNR, property owners were offered options for boat access through a set of boat docks. The docks were limited to specified locations and could not be expanded in size or in number without DNR approval. The Army Corps has developed “shoreline management plans” which include consideration of issues arising from group boat docks. Considerable time and effort by the DNR and private funding have gone into the development of group docks. For Monroe Lake and Mississenewa Lake, 312 IAC 8-4 governs the treatment of group boat docks.

If 312 IAC 8-4 were allowed to expire, issues would arise over loss of control to lake access by these property owners. Included would be the potential loss of land values by property owners who currently have lake access, and the elimination of direct boat access to the lake by the owners. The Army Corps could be forced to insert its authority as the property owner by implementing emergency regulations to deal with a potentially chaotic situation. If 312 IAC 8-4 were sunsetted, the DNR’s legal ability to implement any standards would be jeopardized.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

Over the years, private individuals and businesses have pressed for additional slips on current docks or for new docks as rental facilities, and condominiums have been built above land owned by the Army Corps and leased to the DNR. Some current group dock associations or corporations have sought to add slips or boats to existing dock space. Several years ago, litigation was threatened or initiated.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule

312 IAC 8-4 can be difficult to administer, especially at Monroe Lake. The large number of lake users and increased development of private real estate above Army Corps ownership brings social and financial pressures. Developments above the lake can have many more property owners than the group dock policy permits. There is a large disparity in property values between property owners who have access to group boat docks and those who do not. This rule requires the DNR to inspect whether the use of docks is compliant, but budgetary restrictions limit the frequency of inspections.

Small business impacts are minimal unless the association ownership of a group dock is at issue. An association which could expand the number of slips would improve its net worth, but the increase would compromise the ability of the lakes to provide dependable public water supply and to afford flood control, primary purposes for formation of the lakes. Adding slips would also limit the recreational values of lakes that are already crowded with boats, particularly on weekends and holidays in the summer.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

The DNR and the Army Corps partner in the management of Monroe Lake and Mississenewa Lake. Although the partnership requires continued attention, the arrangement has generally worked effectively with the inevitable differences of perspective successfully resolved.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

In 2009, the Commission received a citizen petition for rule change that would have increased the number of slips authorized for one of the group boat docks at Monroe Lake. Following a thorough review and recommendations by DNR professionals, the Commission determined the change could not be justified either legally or factually. An important consideration in the Commission's decision was the role of the Army Corps. This process illustrates the DNR's and the Commission's commitment to balance competing interests within statutory sideboards.

312 IAC 8-5

The continued need for the rule

312 IAC 8-5 addresses enforcement, penalties, and other administrative actions pertaining to public use of DNR properties. The rule is probably most notable for its treatment of property ejections and the opportunity for the recipient of an ejection to obtain administrative review and judicial review. Before adoption of the rule in 1999, there were periodic questions concerning the bases for agency enforcement and concerning the rights of citizens who were the subject of enforcement. The rule is needed to identify enforcement mechanisms and their limitations.

The nature of any complaints or comments received from the public, including small businesses, concerning the rule or the rule's implementation by the agency

No one is pleased with becoming the subject of an enforcement action as a result of a violation of a statute or rule. For property ejections, an opportunity is identified for administrative review, and in several instances individuals have availed themselves of the

opportunity. During administrative review, the DNR and the recipient of the ejection have often achieved a settlement regarding the level of the sanction, most commonly resulting in a reduction of the duration or geographic scope of the ejection. To date, no one is believed to have pursued the remedy of judicial review.

The complexity of the rule, including any difficulties encountered by:

(A) the agency in administering the rule; or

(B) small businesses in complying with the rule

Determining the level of sanction appropriate to an individual's violation of statute or rule in use of a DNR property is always a challenge. The rule does not pose particular difficulties in its administration, however. The rule does not establish new substantive requirements and so does not pose additional burdens on small business or other persons in terms of compliance.

The extent to which the rule overlaps, duplicates, or conflicts with other federal, state, or local laws, rules, regulations, or ordinances

There has been no demonstration this section significantly overlaps with or duplicates other federal, state or local laws.

The length of time since the rule was last reviewed under this section or otherwise evaluated by the agency, and the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule since that time

This section was last reviewed in 2004.

C. NOTICE OF INTENT AND RECOMMENDATION FOR FINAL ACTION

On January 20, 2010, a "Notice of Intent to Readopt" 312 IAC 8 was posted to the *Indiana Register* at 20100120-IR-312100037RNA as anticipated by IC 4-22-2.5-2 and IC 4-22-2.5-4. The notice indicated the intention to readopt the entirety of 312 IAC 8 without changes. The notice also provided that a person had 30 days to submit a written request to the Commission, through the Small Business Regulatory Coordinator, seeking to have a particular section of the rule readopted separately. If such a request had been made, the Commission would have been required to complete the full rule adoption process for the section request to be readopted separately.

In this instance, no written request has been received. The Commission may either submit the rule for filing with the Publisher under IC 4-22-2-35 or elect the procedure for readoption under IC 4-22-2. The recommendation is for the Commission to approve for readoption 312 IAC 8, without amendment as attached in Exhibit "A", for subsequent filing with the Publisher.

Dated: February 23, 2010

Stephen L. Lucas
Hearing Officer

Exhibit “A”

ARTICLE 8. PUBLIC USE OF NATURAL AND RECREATIONAL AREAS

Rule 1. Administration and Definitions

312 IAC 8-1-1 Application

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 1. This article applies to use by a person of any DNR property. (*Natural Resources Commission; 312 IAC 8-1-1; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-1-2 Administration

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 2. (a) Except as provided in subsection (b), this article is administered by the department.

(b) This article does not apply to a person who has contracted with the department, if the person is conducting business of the department, or to any of the following while performing official duties for the department or commission:

- (1) An employee of the department.
- (2) A member of the commission.
- (3) An employee of the commission.
- (4) A member of the advisory council.
- (5) A member of the museum board of trustees.
- (6) A law enforcement officer.

(*Natural Resources Commission; 312 IAC 8-1-2; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; filed Sep 19, 2003, 8:14 a.m.: 27 IR 455; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-1-3 Entrance and use requirements

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 3. The commission may, in a master plan or by resolution, establish any of the following:

- (1) Fees for entrance into a DNR property or for a particular use within a DNR property.
- (2) Entrance and exit sites for a DNR property.
- (3) Conditions upon or prohibitions against particular uses within a DNR property or a portion of a DNR property.

(*Natural Resources Commission; 312 IAC 8-1-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-1-4 Definitions

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 9-13-2-196; IC 9-25-2-4; IC 14-8-2-185; IC 14-8-2-261; IC 14-31-1

Sec. 4. The following definitions are supplemental to those set forth at 312 IAC 1 and apply throughout this article:

(1) "Authorized representative" means the director or another person designated by the director.

(2) "Berry" means the fruiting body of the following:

- (A) A blackberry.
- (B) A blueberry.
- (C) A dewberry.
- (D) An elderberry.
- (E) A gooseberry.
- (F) A huckleberry.
- (G) A mulberry.
- (H) A raspberry.
- (I) A serviceberry.
- (J) A strawberry.

(3) "DNR property" means land and water owned, licensed, leased, or dedicated under IC 14-31-1 or under easement to the state or managed by the department. The following areas are, however, exempted from the term:

- (A) Public freshwater lakes.
- (B) Navigable waterways.
- (C) Buildings and grounds (other than those of the Indiana state museum) not located at recreational, natural, or historic sites.

An area is not exempted because the department has issued a lease, license, or concession to another person.

(4) "Fallen cone" means the fruiting body of a coniferous tree that is no longer attached to a living tree.

(5) "Firearm or bow and arrows" means:

- (A) a firearm;
- (B) an air gun;
- (C) a CO₂ gun;
- (D) a spear gun;
- (E) a bow and arrows;
- (F) a crossbow;
- (G) a paint gun; or
- (H) a similar mechanical device;

that can be discharged and is capable of causing injury or death to a person or an animal or damage to property.

(6) "Fruit" means the fruiting body of the following:

- (A) Apples.
- (B) Cherries.
- (C) Grapes.
- (D) Hawthorns.
- (E) Persimmons.
- (F) Plums.
- (G) Pears.
- (H) Pawpaws.
- (I) Roses.

(7) "Greens" means the aboveground shoots or leaves of the following:

- (A) Asparagus.
- (B) Dandelion.
- (C) Mustard.
- (D) Plantain.
- (E) Poke.

(8) "Group boat dock" means an artificial basin or enclosure for the reception of boats that is owned and maintained by adjacent landowners for their private usage.

(9) "Leaf" means the leaf of a woody plant for use in a leaf collection or similar academic project.

- (10) "License" means:
 - (A) a license;
 - (B) a permit;
 - (C) an agreement;
 - (D) a contract;
 - (E) a lease;
 - (F) a certificate; or
 - (G) any other form of approval;
 issued by the department. A license may authorize an activity otherwise prohibited by this rule.
 - (11) "Mushroom" means edible fungi.
 - (12) "Nut" means the seeds of the following:
 - (A) Hazelnuts.
 - (B) Hickories.
 - (C) Oaks.
 - (D) Pecans.
 - (E) Walnuts.
 - (13) "Off-road vehicle" has the meaning set forth in IC 14-8-2-185.
 - (14) "Public road" means a public highway under IC 9-25-2-4 that is designated by the department for use by the public.
 - (15) "Recreation area" means an area that is managed by the department for specific recreation activities.
 - (16) "Snowmobile" has the meaning set forth in IC 14-8-2-261.
 - (17) "Vehicle" has the meaning set forth in IC 9-13-2-196(d).
- (Natural Resources Commission; 312 IAC 8-1-4; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 552, eff Jan 1, 2000; filed Dec 26, 2001, 2:42 p.m.: 25 IR 1544; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3713; filed Sep 19, 2003, 8:14 a.m.: 27 IR 455; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 461, eff Jan 1, 2006; filed Jul 11, 2006, 9:04 a.m.: 20060802-IR-312060009FRA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA)*

Rule 2. General Restrictions on the Use of DNR Properties

312 IAC 8-2-1 Posted special requirements

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 1. (a) A sign may be posted to authorize a particular use, to identify conditions upon a particular use, or to establish prohibitions against a particular use within a DNR property or a portion of a DNR property. A sign may close an area to entry by the public.

(b) A person must not violate a sign posted under this section. *(Natural Resources Commission; 312 IAC 8-2-1; filed Oct 28, 1998, 3:32 p.m.: 22 IR 739, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

312 IAC 8-2-2 Trash, refuse, and sanitation

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14-15-2-7; IC 14-15-2-8

Sec. 2. (a) Trash, refuse, waste, garbage, glass, petroleum products, sewage, or another material must not be:

- (1) maintained, treated, or disposed in a manner that violates a federal or state law; or
- (2) brought onto a DNR property for disposal.

(b) A boat equipped with a toilet or galley may be inspected by a department representative at any time for compliance with IC 14-15-2-7 and IC 14-15-2-8. Before entering a property, a person must make inoperative any outside drain of a toilet or galley.

(c) A vehicle, boat, aircraft, waste receptacle, or personal item must not be washed except in a designated area. *(Natural Resources Commission; 312 IAC 8-2-2; filed Oct 28, 1998, 3:32 p.m.: 22 IR 739,*

eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA)

312 IAC 8-2-3 Firearms, hunting, and trapping

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-22-2-6

Affected: IC 14-22-11-1; IC 35-47-2

Sec. 3. (a) A person must not possess a firearm or bow and arrows on a DNR property unless one (1) of the following conditions apply:

- (1) The firearm or bow and arrows are:
 - (A) unloaded and uncocked; and
 - (B) placed in a case or locked within a vehicle.
- (2) The firearm or bow and arrows are possessed at, and of a type designated for usage on:
 - (A) a rifle;
 - (B) a pistol;
 - (C) a shotgun; or
 - (D) an archery;

range.

- (3) The firearm or bow and arrows are being used in the lawful pursuit of either of the following:
 - (A) A wild animal on a DNR property authorized for that purpose.
 - (B) A groundhog as authorized under a license.
- (4) The person possesses a handgun on a DNR property other than a reservoir owned by the U.S. Army Corps of Engineers or Falls of the Ohio State Park:
 - (A) with a valid unlimited license to carry a handgun:
 - (i) issued under IC 35-47-2-3; or
 - (ii) recognized under IC 35-47-2-21(b); or
 - (B) pursuant to an exemption to handgun licensure requirements as authorized under IC 35-47-2-2.

(b) Except as provided in subsection (a)(1) or (a)(4), a firearm or bow and arrows may not be possessed on DNR properties within any of the following:

- (1) A nature preserve unless hunting is authorized under subsection (c).
- (2) A property administered by the division of state museums and historic sites.
- (3) A campground.
- (4) A picnic area.
- (5) A beach.
- (6) A service area.
- (7) A headquarters building.
- (8) A hunter check station.
- (9) A developed recreation site.

(c) A person may hunt on the following DNR properties:

- (1) A state forest administered by the division of forestry, including a portion of a state forest that is a nature preserve.
- (2) A reservoir property administered by the division of state parks and reservoirs.
- (3) A wildlife area administered by the division of fish and wildlife, including a portion of a wildlife area that is a nature preserve.

(4) A nature preserve not otherwise approved for hunting under this subsection if approved in a written authorization by the director of the division of nature preserves.

(d) A person hunting on any of the areas described in subsection (c) must do the following:

- (1) Comply with all federal and state:
 - (A) hunting;
 - (B) trapping; and
 - (C) firearms;

laws.

(2) On a fish and wildlife area and a reservoir property, obtain a one (1) day hunting permit and record from a checking station. The person must:

- (A) retain the permit and record card while in the field for the authorized date; and

- (B) as directed, return them to the department.
- (3) Refrain from hunting on a nature preserve if prohibited by signage posted at the site.
- (e) Unless otherwise posted or designated on a property map, a person must not place a trap except as authorized by a license issued for a property by an authorized representative. This license is in addition to the licensing requirement for traps set forth in IC 14-22-11-1.
- (f) A person must not run dogs, except:
 - (1) during the lawful pursuit of wild animals; or
 - (2) as authorized by a license for field trials or in a designated training area.

A property administered by the division of fish and wildlife may be designated for training purposes without requiring a field trial permit. Only dogs may be used during field trials on a DNR property, except where authorized by a license on a fish and wildlife property.
- (g) Unless otherwise designated, a person must not discharge a firearm or bow and arrows within two hundred (200) feet of any of the following:
 - (1) A campsite.
 - (2) A boat dock.
 - (3) A launching ramp.
 - (4) A picnic area.
 - (5) A bridge.
- (h) A person must not leave a portable tree blind or duck blind unattended except for the period authorized by 312 IAC 9-3-2(l).
- (i) The following terms apply to the use of shooting ranges:
 - (1) A person must not use a shooting range unless the person is:
 - (A) at least eighteen (18) years of age; or
 - (B) accompanied by a person who is at least eighteen (18) years of age.
 - (2) A person must:
 - (A) register with the department; and
 - (B) pay any applicable fees;

before using a shooting range.
 - (3) A person must shoot only at paper targets placed on target holders provided by the department. All firing must be downrange with reasonable care taken to assure any projectile is stopped by the range backstop.
 - (4) Shot not larger than size 6 must be used on a shotgun range.
 - (5) A person must not:
 - (A) discharge a firearm using automatic fire;
 - (B) use tracer, armor-piercing, or incendiary rounds;
 - (C) play on, climb on, walk on, or shoot into or from the side berms; or
 - (D) shoot at clay pigeons, except on a site designated for shooting clay pigeons.

Glass and other forms of breakable targets must not be used on a shooting range.
 - (6) A person must dispose of the targets used by the person under section 2(a) of this rule.
 - (7) Permission must be obtained from the department in advance for a shooting event that involves any of the following:
 - (A) An entry fee.
 - (B) Competition for any of the following:
 - (i) Cash.
 - (ii) Awards.
 - (iii) Trophies.
 - (iv) Citations.
 - (v) Prizes.
 - (C) The exclusive use of the range or facilities.
 - (D) A portion of the event occurring between sunset and sunrise.
 - (8) On a field course, signs and markers must be staked. Trees must not be marked or damaged.
 - (j) A person must not take a reptile or amphibian unless the person is issued a scientific collector license under 312 IAC 9-10-6. Exempted from this subsection are:
 - (1) turtles taken under 312 IAC 9-5-2; and
 - (2) frogs taken under 312 IAC 9-5-3;

from a DNR property where hunting or fishing is authorized. (*Natural Resources Commission; 312 IAC 8-2-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 739, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 553, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3714; filed Sep 19, 2003, 8:14 a.m.: 27 IR 456; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 461, eff Jan 1, 2006; filed Jul 11, 2006, 9:04 a.m.: 20060802-IR-312060009FRA; filed Sep 6, 2007, 12:20 p.m.: 20071003-IR-312070023FRA; filed Mar 11, 2008, 9:34 a.m.: 20080409-IR-312070449FRA*)

312 IAC 8-2-4 Fishing

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14-22-11-1; IC 14-31-1

- Sec. 4. (a) A person must comply with all federal and state fishing laws.
- (b) Except on the waters of a reservoir property administered by the division of state parks and reservoirs, a person who is on a waterway must not:
- (1) clean or process fish; or
 - (2) possess fish that have been cleaned or processed.
- (c) A person must not fish in a nature preserve dedicated under IC 14-31-1, except as follows:
- (1) At a site posted to authorize fishing.
 - (2) From a boat in a river, stream, or lake where access to the waterway was lawfully obtained outside the nature preserve.
 - (3) In a nature preserve that is also a fish and wildlife area. (*Natural Resources Commission; 312 IAC 8-2-4; filed Oct 28, 1998, 3:32 p.m.: 22 IR 740, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 554, eff Jan 1, 2000; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA*)

312 IAC 8-2-5 Alcoholic beverages

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

- Sec. 5. A person must not possess or consume an alcoholic beverage at any of the following locations:
- (1) Indiana Dunes State Park.
 - (2) A swimming beach or pool.
 - (3) A shooting range. (*Natural Resources Commission; 312 IAC 8-2-5; filed Oct 28, 1998, 3:32 p.m.: 22 IR 740, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-2-6 Animals brought to DNR properties

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14; IC 35-46-3-11.5

- Sec. 6. (a) A person who possesses a pet or service animal must:
- (1) keep the animal caged or on a leash not more than six (6) feet long; and
 - (2) attend the animal at all times.
- This subsection does not apply to activities governed by section 3(e) of this rule.
- (b) If a pet or service animal appears likely to:
- (1) endanger a person or property; or
 - (2) create a nuisance;
- the owner may be required to immediately remove the pet or service animal from a DNR property.
- (c) A person must not take or possess a cat, a dog, or other pet to a:
- (1) swimming beach;
 - (2) swimming pool enclosure;
 - (3) rental facility; or
 - (4) public building.
- A service animal used by a person with a disability is exempted from this subsection.
- (d) A person must acquire an annual or daily horse tag or receipt for each horse that is brought into a designated DNR property from April 1 through November 30. The tag or receipt must be:
- (1) kept in the person's immediate possession; and

(2) provided to an authorized representative upon request.

(e) A person must not do the following:

(1) Allow livestock or domesticated animals to enter or remain upon a DNR property. These animals may be removed by the department and disposed or held at the owner's expense.

(2) Release an animal on DNR property except under license issued by an authorized representative under this subdivision. To receive a license, a person must demonstrate the animal is healthy and unlikely to endanger public safety or the environment. A person in violation of this subdivision shall reimburse the department for any expenses reasonably incurred.

(f) For purposes of this section, a pet is not a service animal under IC 35-46-3-11.5. (*Natural Resources Commission; 312 IAC 8-2-6; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 554, eff Jan 1, 2000; filed Nov 30, 2001, 10:55 a.m.: 25 IR 1074, eff Jan 1, 2002; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3715; filed Sep 19, 2003, 8:14 a.m.: 27 IR 457; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA*)

312 IAC 8-2-7 Fires and flammable liquids

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 7. (a) A person must not start or maintain a fire except in a public use area designated for that purpose. A fire must be extinguished immediately after use. An authorized representative may prohibit fires even in a designated area for public safety or to protect property.

(b) A person must extinguish a lighted match, cigarette, cigar, or similar item before discarding the item. (*Natural Resources Commission; 312 IAC 8-2-7; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-2-8 Vehicles, trails, boats, and aircraft

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-11-2-1; IC 14-19-1-1

Affected: IC 14-19-1-0.5; IC 14-22-11-1

Sec. 8. (a) A person must not operate a vehicle:

(1) at a speed greater than:

(A) thirty (30) miles per hour on straight, open stretches of road; or

(B) fifteen (15) miles per hour on steep grades or curves or where posted; or

(2) other than on a public road.

(b) A person must not park:

(1) a vehicle;

(2) a boat; or

(3) associated equipment;

except at a site designated by the department.

(c) A person must not operate a motorized cart on a DNR property except as follows:

(1) The person must demonstrate both of the following:

(A) The person holds a valid driver's license.

(B) The person:

(i) is at least sixty-five (65) years of age that is evidenced by the valid driver's license; or

(ii) has a disability, as defined by the federal Social Security Administration guidelines (42 U.S.C. 416), that is evidenced by documentation from the Social Security Administration.

(2) A person must not operate a motorized cart other than within a campground.

(3) A motorized cart must, if operated between the hours of sunset and sunrise, have a lamp on the:

(A) front exhibiting a white light visible at least five hundred (500) feet ahead of the motorized cart; and

(B) rear exhibiting a red light visible at least five hundred (500) feet behind the motorized cart.

(4) A restriction applicable to the operation, parking, or other use of a vehicle under this section also applies to a motorized cart.

(5) As used in this subsection, "campground" means an area where provisions are made for the accommodation of any of the following:

(A) Tents.

(B) Recreational vehicles.

(C) Vacation mobile homes.

(6) As used in this subsection, "motorized cart" has the meaning set forth in IC 14-19-1-0.5.

(d) A person moving cross-country on a trail must remain on the designated pathway for the trail. A person must not:

- (1) hike;
- (2) bike;
- (3) ski;
- (4) horseback ride; or
- (5) operate an off-road vehicle or snowmobile;

except on a trail designated for the purpose. A person must not ride, lead, drive, or hitch an animal, except where designated by the department.

(e) A person must not launch, dock, or moor a boat, except:

- (1) for approved periods; and
- (2) at sites designated by the department for those purposes.

(f) A person must not:

- (1) leave a boat unattended in a courtesy dock provided by the department; or
- (2) moor a boat at a designated group dock or mooring post unless the boat exhibits a valid mooring permit.

(g) A person must not operate or maintain a boat on a lake unless the person does each of the following:

- (1) Operates the boat according to any horsepower or speed restrictions applicable to the lake.
- (2) Except as provided in subdivisions (3) and (6), obtains and displays a valid annual boat lake permit as follows:

(A) Purchase from the department a boat lake permit under a fee schedule approved by the commission.

(B) Affix the permit in a visible location on the forward half of the boat.

(3) Except as provided in subdivision (6), for a motorboat, obtains and displays a valid annual motorboat lake permit as follows:

(A) Purchase from the department a motorboat lake permit under a fee scheduled approved by the commission.

(B) Affix the permit in a visible location on the port (left) side immediately following the excise tax decal or registration number.

(4) For a lake containing fewer than three hundred (300) acres, operates a motorboat only if the motorboat is either of the following:

(A) Powered by an electric trolling motor with not more than:

- (i) two (2) 12-volt batteries; or
- (ii) one (1) 24-volt battery.

(B) Operated on Loon Lake, Otter Lake, or Blue Grass Pit in the Blue Grass Fish and Wildlife Area at not greater than idle speed.

(5) Removes a boat from the lake before the expiration of fourteen (14) consecutive days, unless the boat is moored in an area where the department has approved mooring for a longer duration.

(6) A lake located on a DNR property administered by the division of fish and wildlife is exempted from subdivisions (2) and (3).

(h) A person must not leave a vehicle, boat, or associated equipment at a DNR property unless the person is actively engaged in the use of:

- (1) a DNR property; or
- (2) an adjacent:
 - (A) public freshwater lake; or
 - (B) navigable waterway.

(i) A person must not land, taxi, take-off, park, or moor:

- (1) an aircraft;
- (2) a hang glider;
- (3) an ultralite;
- (4) a powered model aircraft; or
- (5) a hot air balloon;

except at a site designated for that purpose or pursuant to a license. (*Natural Resources Commission; 312 IAC 8-2-8; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 555, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3715; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 463, eff Jan 1, 2006; filed Jun 9, 2006, 3:40 p.m.: 20060705-IR-312050344FRA; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA*)

312 IAC 8-2-9 Swimming, snorkeling, scuba diving, and tow kite flying

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 9. (a) A person must not swim, or allow a child or other person in the person's care to swim, other than at the following locations:

(1) At a designated swimming beach or pool during designated hours.

(2) From a boat between sunrise and sunset in an embayment on a reservoir property established under 312 IAC 5-10 as an idle speed zone, but not:

(A) in a causeway; or

(B) within one hundred (100) feet of a designated launching ramp or other public use facility.

(b) A person must not snorkel, except from a boat on a reservoir property and within an embayment designated as an idle speed zone.

(c) A person must not scuba dive unless in compliance with each of the following:

(1) A license is issued by the department.

(2) Between the hours of sunrise and sunset.

(3) A diving flag is displayed to designate the area in use.

(d) A person must not engage in tow kite flying, except during the following periods:

(1) On weekdays from sunrise to sunset.

(2) Except as provided in subdivision (3), on Saturdays, Sundays, or holidays, from sunrise until 11 a.m. and from 5 p.m. until sunset.

(3) On:

(A) Memorial Day weekend;

(B) the Fourth of July and a Saturday or Sunday that immediately precedes or follows the Fourth of July; and

(C) Labor Day weekend;

from sunrise until 11 a.m. (*Natural Resources Commission; 312 IAC 8-2-9; filed Oct 28, 1998, 3:32 p.m.: 22 IR 741, eff Jan 1, 1999; filed Sep 19, 2003, 8:14 a.m.: 27 IR 458; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Jul 11, 2006, 9:04 a.m.: 20060802-IR-312060009FRA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA*)

312 IAC 8-2-10 Preservation of habitat and natural and cultural resources

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 10. Except as authorized by a license, a person must not do any of the following within a DNR property:

(1) Molest an animal den or bird nest.

(2) Collect any wild animal, except as authorized by section 3 or 4 of this rule.

(3) Damage or collect a plant or pick flowers. Exempted from this subdivision are the following:

(A) Berries.

(B) Fruits.

(C) Nuts.

(D) Fallen cones.

(E) Mushrooms.

(F) Leaves.

(G) Greens.

(4) Pick berries, fruits, nuts, fallen cones, mushrooms, leaves, or greens on a nature preserve unless the nature preserve is located at any of the following:

(A) State park.

- (B) Reservoir property.
- (C) Fish and wildlife area.
- (D) State forest.
- (5) Damage, interfere with, or remove:
 - (A) a work of art;
 - (B) an artifact;
 - (C) a rock or mineral;
 - (D) a shipwreck;
 - (E) an archeological site;
 - (F) a historic site;
 - (G) a building; or
 - (H) a sign.
- (6) Place or maintain a:
 - (A) structure;
 - (B) device;
 - (C) dock;
 - (D) buoy;
 - (E) ramp; or
 - (F) sign.
- (7) Use a metal detector, except on a sand, swimming beach as approved by an authorized representative.
- (8) Rock climb or rappel.
- (9) Collect firewood on a state park.
- (10) Dig or excavate any material from the ground.
- (11) Regardless of whether taken lawfully, sell any material taken from a DNR property. Exempted from this subdivision are materials taken under a license issued by the department that specifically authorizes the sale of the material. (*Natural Resources Commission; 312 IAC 8-2-10; filed Oct 28, 1998, 3:32 p.m.: 22 IR 742, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-2-11 Campsites and camping

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 11. (a) A person must not place or maintain a camp, tent, or trailer except during periods and at sites authorized by the department for camping. Between 11 p.m. and 7 a.m., a person must not occupy a site other than a designated campsite, cabin, or inn room unless otherwise authorized by a written permit.

(b) No more than six (6) individuals may lawfully occupy one (1) campsite in a family campground unless otherwise approved by an authorized representative.

(c) An individual at least eighteen (18) years of age must register at a campground on behalf of the persons in a group. The responsible person registering for a campsite must remain with the group during the camping period. Campers under eighteen (18) years of age must be accompanied by a person at least eighteen (18) years of age.

(d) A camping fee shall be paid in advance and entitles a group or family to occupy one (1) campsite for one (1) overnight period. The department may provide, on the written fee receipt, restrictions on use of the campsite that supplement the restrictions contained in this article.

(e) Campground occupancy is limited to fourteen (14) consecutive nights unless another period is designated by the department. The property manager or another designated representative of the department may extend the duration of the occupancy for a period not to exceed sixty (60) days where a medical need is established. At the end of the camping period, a camping family or group must vacate the property and remove all equipment for at least forty-eight (48) hours.

(f) A person must not lease or sublease a campsite or equipment on-site to another person.

(g) A person must not:

(1) bathe; or

(2) wash a:

(A) pet;

- (B) dish or other cooking utensil; or
 - (C) other personal property;
- at a drinking fountain, lavatory, or laundry tub. Dishwater must be disposed through proper sanitary facilities and must not be discharged on the ground. A boat or a vehicle must not be washed in a camping area.
- (h) Quiet hours shall be observed from 11 p.m. until 7 a.m.
 - (i) Equine animals and llamas are allowed in a horsemen's campground but are prohibited from entering a family campground.
 - (j) A person must not dispose of refuse or garbage, except in a receptacle provided for that purpose.
 - (k) Check-out time from a campground is 2 p.m. on Monday through Saturday and 5 p.m. on Sunday or a holiday. (*Natural Resources Commission; 312 IAC 8-2-11; filed Oct 28, 1998, 3:32 p.m.: 22 IR 742, eff Jan 1, 1999; errata filed Dec 17, 1998, 9:32 a.m.: 22 IR 1525; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3716; filed Sep 19, 2003, 8:14 a.m.: 27 IR 458; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-2-12 Other personal activities

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

- Sec. 12. (a) A person must leave a recreation area by 11 p.m. unless the person is:
- (1) lawfully using a camp, cabin, trailer, or inn; or
 - (2) otherwise engaged in an authorized activity.
- (b) A person must not use an audible device in a way or at a time that unduly disturbs another person. As used in this subsection, "audible device" includes any of the following:
- (1) A radio.
 - (2) A television.
 - (3) An audio tape player.
 - (4) A compact disc player.
 - (5) A musical instrument.
 - (6) A motor.
 - (7) An engine.
 - (8) An electronic generator.
 - (9) A similar device that produces sound.
- (c) A person must not operate a public address system, except according to a license.
- (d) A person must not possess fireworks.
- (e) Except as approved by an authorized representative, a person must not enter a cave or the remains of a subsurface mine. (*Natural Resources Commission; 312 IAC 8-2-12; filed Oct 28, 1998, 3:32 p.m.: 22 IR 743, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-2-13 Marinas and wastewater holding facilities for boats

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

- Sec. 13. (a) As used in this section, "marina" means a structure that:
- (1) services simultaneously at least five (5) boats; and
 - (2) provides, for a fee, one (1) or more of the following:
 - (A) Boat engine fuel.
 - (B) Boat repair.
 - (C) Boat sales or rental.
- (b) Except as provided in subsection (d), a person must not operate a marina unless the person provides a pumpout that is in good working order and readily accessible to patrons of the marina and secures and maintains one (1) of the following:
- (1) A license under 327 IAC 3-2 for the construction and operation of a wastewater treatment facility or sanitary sewer.
 - (2) A license under 410 IAC 6-10 for the construction of a commercial on-site wastewater disposal facility.
 - (3) An alternative written approval for wastewater disposal from an authorized governmental agency.

(c) The requirements of subsection (b) shall be made a condition for a license issued by the department to:

- (1) construct a new marina; or
- (2) modify an existing marina.

(d) A person may apply to the division of law enforcement for an exemption from subsection (b). The exemption shall be granted, for a period not to exceed five (5) years, where the person demonstrates either of the following:

(1) The marina is designed to serve exclusively boats that are neither required nor likely to be equipped with a marine sanitation device.

(2) The operator of the marina has entered a binding agreement with another marina or similar facility along the waterway to provide pumpout services where the other marina or similar facility:

(A) maintains a lawful pumpout as described in subsection (b);

(B) is in proximity to the marina seeking the exemption so patrons to be served at a pumpout, which would otherwise be required at the exempted marina, would not be significantly inconvenienced; and

(C) has sufficient pumpout capacity and accessibility to effectively serve the patrons of both parties to the agreement. (*Natural Resources Commission; 312 IAC 8-2-13; filed Oct 28, 1998, 3:32 p.m.: 22 IR 743, eff Jan 1, 1999; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3886; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Apr 24, 2008, 1:44 p.m.: 20080521-IR-312070646FRA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA*)

312 IAC 8-2-14 Advertisements and solicitations

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 14. (a) A person must not post a private notice or advertisement, except as approved by an authorized representative.

(b) A person must not solicit or engage in business, except as approved by an authorized representative. (*Natural Resources Commission; 312 IAC 8-2-14; filed Oct 28, 1998, 3:32 p.m.: 22 IR 743, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-2-15 Use by private organizations

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 4-21.5; IC 14

Sec. 15. (a) This section governs the use of an area within a DNR property that is open to the public by a person to conduct a public meeting, parade, demonstration, ceremony, contest, competition, sporting activity, or other special event. For the purposes of this section, an area is not open to the public if the director or an authorized representative determines that the proposed activity would unduly disturb the environmental, biological, ecological, archeological, or historic characteristics of the area.

(b) An area open to the public may not be used by a person to conduct a public meeting, parade, demonstration, or ceremony unless the person has obtained a license for the use under this section.

(c) An application for a license designated in subsection (b) shall be delivered to the department at least thirty (30) days in advance of the proposed event and shall set forth each of the following:

- (1) The name, address, and telephone number of the applicant.
- (2) The date, time, and duration of the proposed activity.
- (3) An estimate of the number of individuals expected to attend and to participate in the activity.
- (4) A statement of any equipment or facilities to be used in connection with the activity.

(d) An application for a license under subsection (b) shall be granted unless the property manager determines at least one (1) of the following:

(1) The activity will present or be conducted in a manner that will present a clear and immediate danger to public health or safety.

(2) The activity will cause undue interference to other users in the area.

(3) The activity will conflict with another license previously issued by the property manager.

(e) An area open to the public may not be used for a contest, competition, sporting event, or other similar activity unless authorized by a license. An application for a license under this subsection shall be

delivered to the department at least thirty (30) days before the proposed event and shall set forth the following:

- (1) The name, address, and telephone number of the applicant.
- (2) The date, time, and duration of the proposed activity.
- (3) An estimate of the number of individuals expected to attend and participate in the activity.
- (4) A description of any equipment or facilities to be used in connection with the activity.
- (f) To receive a license under subsection (e), the applicant must demonstrate each of the following:
 - (1) The activity will not present or be conducted in a manner that will present a clear and immediate danger to public health or safety.
 - (2) The activity will not cause undue interference to other users of the area.
 - (3) The activity will not conflict with another permit previously issued by the property manager.
 - (4) The activity is consistent with the property master plan, or, if a master plan has not been adopted, is consistent with the purposes for which the area was established.
 - (5) The activity is consistent with any site designated under subsection (h).
 - (g) The property manager shall make an initial determination to issue or deny an application for a license sought under this section within a reasonable period of time after receipt of the application. The license may include conditions that are reasonably necessary to satisfy the purposes of this section. An applicant or other affected person who is aggrieved may take administrative review to the commission under IC 4-21.5 and 312 IAC 3-1.
 - (h) An area open to the public is available to the general public by reservation on a first-come, first-served basis.
 - (i) A license issued under this section does not authorize a person to establish, construct, or erect a structure unless otherwise specified in the license.
 - (j) This section does not apply to a private expression of religious preference. (*Natural Resources Commission; 312 IAC 8-2-15; filed Oct 28, 1998, 3:32 p.m.: 22 IR 744, eff Jan 1, 1999; errata filed Dec 17, 1998, 9:32 a.m.: 22 IR 1525; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-2-16 Goose Pond Fish and Wildlife Area entry

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14; IC 35-46-3-11.5

Sec. 16. (a) A person must obtain a permit card from the check-in station before entering Goose Pond Fish and Wildlife Area in Greene County.

(b) The person must do the following:

- (1) Retain the permit card while in the field for the authorized date.
- (2) As directed, return the permit card to the department.

(*Natural Resources Commission; 312 IAC 8-2-16; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA*)

Rule 3. Fishing Tournaments (Repealed)

(*Repealed by Natural Resources Commission; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3933, eff Jan 1, 2002*)

Rule 4. Group Boat Docks

312 IAC 8-4-1 Application

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14-22-11-1

Sec. 1. (a) This rule governs the placement of a group boat dock on Monroe Lake or Mississinewa Lake.

(b) No group boat dock may be placed on Monroe Lake or Mississinewa Lake, except as provided under this rule. (*Natural Resources Commission; 312 IAC 8-4-1; filed Oct 28, 1998, 3:32 p.m.: 22 IR 746, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 555, eff Jan 1, 2000; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-4-2 Participation in a group boat dock; minimum requirements

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-19-1-1

Affected: IC 14

Sec. 2. (a) To qualify for a group boat dock, one (1) of the following must be satisfied:

- (1) Each person who has a boat slip must own real estate adjoining federal project land.
- (2) Each person who has a boat slip must own a lot in an incorporated subdivision composed of contiguous lots where at least twenty-five percent (25%) of the lots adjoin project land. The person who owns one (1) of these lots is eligible for a slip in the group boat dock.
- (3) Each person who has a boat slip must be a joint owner in property managed by a corporation where the corporation has managed the property continuously since December 31, 1968. This subdivision does not apply if the corporation becomes dissolved, merged, or transferred to another entity.

(b) For a property to qualify under subsection (a), the property must have a size and shape that is adequate for cabin-type development adjoining federal project lands. (*Natural Resources Commission; 312 IAC 8-4-2; filed Oct 28, 1998, 3:32 p.m.: 22 IR 746, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315*)

312 IAC 8-4-3 Installation and maintenance of a group boat dock

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14-22-11-1

Sec. 3. A group boat dock must be installed and maintained as follows:

(1) The person who holds a license under this rule must be a corporation, association, partnership, or other group with at least six (6) separate parcels of land and landowners. An affidavit of land ownership must be filed for each member of the permit application or license holder. A license applicant must submit a copy of the articles of incorporation, bylaws, partnership agreement, or other similar document.

(2) A surety bond and insurance must be maintained for the group boat dock in an amount determined by the department.

(3) A license for a group boat dock must be renewed annually with a service fee due upon renewal.

(4) Dock construction must be approved by the department.

(5) Boat slips shall be located as close to the edge of the water as practicable.

(6) A dock shall be securely moored or anchored to prevent drifting during high wind, waves, and fluctuation of the pool elevation of Lake Monroe.

(7) A group boat dock and any adjacent area must be kept free from trash, garbage, floating debris, and other materials that may pose a hazard to safety or the environment.

(8) The license holder shall supply a responsible person to provide uninterrupted operation and surveillance of the group boat dock.

(9) No sign shall be placed on the group boat dock or an adjacent area that indicates the site is private property.

(10) A group boat dock shall display its license number so that the number can be easily read from passing boats. The number shall be:

- (A) at least two (2) feet high;
- (B) black on white background; and
- (C) three (3) feet above the deck of the dock.

(11) Land access can be provided to a group boat dock only by a foot path consisting of rock, stone, or gravel. Approval for the foot path must also be obtained from the United States Army Corps of Engineers. Vehicles are prohibited from using the foot path.

(12) The license holder must promptly notify the department in writing of a change in its membership or legal structure. The notification must include a description of the land that is transferred and an affidavit of ownership for the new owner. (*Natural Resources Commission; 312 IAC 8-4-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 747, eff Jan 1, 1999; errata filed Dec 17, 1998, 9:32 a.m.: 22 IR 1525; filed Nov 5, 1999, 10:14 a.m.: 23 IR 555, eff Jan 1, 2000; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA*)

312 IAC 8-4-4 Locations where group boat docks may be placed

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-19-1-1

Affected: IC 14

Sec. 4. The following are the sites on Lake Monroe where group boat docks may be placed if those docks otherwise satisfy the requirements of this rule:

Dock	Site	Maximum Number of Boats	Location
A-1	10 Wisely Farm		
A-2	30 Cove West of Dam		
A-3	30 Three Fingers Cove		
C-6	21 Hardin Ridge		
C-7	15 West of Mouth of Ramp Creek		
D-8	15 Persimmon Ridge		
D-9	12 Sugarcamp Hollow		
E-10	15 Boy Scout Bay		
I-14	10 I.U. Bay		
J-15	50 Bay Northeast of the Causeway		
K-17	40 Hooks Point		

(Natural Resources Commission; 312 IAC 8-4-4; filed Oct 28, 1998, 3:32 p.m.: 22 IR 747, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)

312 IAC 8-4-5 Inspections and revocations

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-19-1-1

Affected: IC 4-21.5-3-8; IC 14-10-2-6

Sec. 5. (a) The department may perform, at any reasonable time, an inspection of a group boat dock and its records to determine whether the requirements of this rule are satisfied.

(b) If the department determines that the holder of a license for a group boat dock has violated this rule, in addition to the sanctions provided in 312 IAC 8-5:

(1) the deputy director for the bureau of lands and cultural resources may issue a complaint for the issuance of a notice of violation under IC 14-10-2-6;

(2) the director of the division of state parks and reservoirs may issue a complaint under IC 4-21.5-3-8 to revoke the license;

or

(3) the director of the department may authorize any other lawful enforcement action.

(Natural Resources Commission; 312 IAC 8-4-5; filed Oct 28, 1998, 3:32 p.m.: 22 IR 747, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)

Rule 5. Enforcement, Penalties, and Other Administrative Actions

312 IAC 8-5-1 Infraction

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14-10-2-6

Sec. 1. (a) A person who violates this article commits a Class C infraction.

(b) A violation of this article may be enforced by a prosecuting attorney or through the initiation of a commission complaint for a notice of violation under IC 14-10-2-6. *(Natural Resources Commission; 312 IAC 8-5-1; filed Oct 28, 1998, 3:32 p.m.: 22 IR 748, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

312 IAC 8-5-2 License sanctions

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 4-21.5-3-8; IC 4-21.5-4; IC 14

Sec. 2. The department may file a complaint under IC 4-21.5-3-8, or seek emergency relief under IC 4-21.5-4, to revoke or suspend the license of a person who violates a term of the license, this article, or another law. *(Natural Resources Commission; 312 IAC 8-5-2; filed Oct 28, 1998, 3:32 p.m.: 22 IR 748, eff Jan 1, 1999; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3933, eff Jan 1, 2002; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*

312 IAC 8-5-3 Ejection from a DNR property

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 4-21.5; IC 14

Sec. 3. (a) A property manager or another authorized representative may require a person to leave a DNR property or may otherwise restrict a person's use of a DNR property.

(b) An ejection or restriction imposed under subsection (a) is effective immediately and applies for twenty-four (24) hours unless the property manager or other authorized representative specifies a shorter duration.

(c) Notwithstanding subsection (b), a property manager or another authorized representative may designate in writing that the ejection or restriction shall remain in effect for not more than one (1) year. An ejection or restriction under this subsection is subject to administrative review to the commission under IC 4-21.5.

(d) An ejection or restriction imposed under this section may be made applicable to all or a portion of particular DNR property, to multiple DNR properties, or to all DNR properties. *(Natural Resources Commission; 312 IAC 8-5-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 748, eff Jan 1, 1999; filed Nov 30, 2001, 10:55 a.m.: 25 IR 1074, eff Jan 1, 2002; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315)*